

treatment plant. While underground injection is the primary means of wastewater disposal elsewhere in the U.S., according to the U.S. EPA this is not the case in the Marcellus Region, where much of the wastewater is reused.

(4) Justification for the need for more restrictive standards:

(a) The benefit from the more restrictive standard exceeds the burden or cost of the more restrictive standard on the regulated person or business.

As discussed above, the burden from the more restrictive standard is minimal or zero, and the prohibition on Class II wells has the benefit of preventing potential risks from increased earthquake activity or groundwater contamination due to underground injection.

(b) Conditions or circumstances specific or special to Maryland require that Maryland enact a more restrictive standard

The construction of Class II wells in Maryland in the near future is very unlikely given Maryland's geology and the resulting lack of suitable locations for Class II wells. Class II wells are often located in depleted gas reservoirs. Maryland has only one such area near Accident in Garrett County; it is currently being used as a natural gas storage facility and is unavailable for construction of Class II wells.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Jeffrey Fretwell, Director, Legislative and Intergovernmental Relations, Maryland Department of the Environment, 1800 Washington Blvd, Baltimore, MD 21230, or call 410-537-3537, or email to marcellus.mde@maryland.gov, or fax to 410-537-3888. Comments will be accepted through December 28, 2016. A public hearing has not been scheduled.

.04 Prohibitions.

A. As provided in COMAR 26.13.05.19, the underground injection of hazardous waste is prohibited in Maryland.

B. *A person may not construct a Class II underground injection well in Maryland.*

BENJAMIN H. GRUMBLES
Secretary of the Environment

Title 31

MARYLAND INSURANCE ADMINISTRATION

Subtitle 08 PROPERTY AND CASUALTY INSURANCE

Notice of Proposed Action

[16-299-P]

The Insurance Commissioner proposes to amend:

(1) Regulation .02 under COMAR 31.08.01 **Antiarson Application;**

(2) Regulation .02 under COMAR 31.08.02 **Toll-Free Telephone Number;**

(3) The **authority line** under COMAR 31.08.03 **Notices of Cancellation, Nonrenewal, Premium Increase, and Reduction in Coverage;**

(4) Regulation .07 under COMAR 31.08.08 **Lead Poisoning;**

(5) Regulations .06—, .08, .13, and .14 under COMAR 31.08.09 **Group Self-Insurance for Workers' Compensation;** and

(6) Regulation .02 under COMAR 31.08.10 **Medical Professional Insurers Online Claim Survey Reporting Requirements.**

Statement of Purpose

The purpose of this action is to make changes consistent with the Maryland Insurance Administration's Evaluation Report for 31.08 under the Regulatory Review and Evaluation Act. Specifically, this proposed action:

- Amends Regulation .02 of 31.08.01 to replace references to "brokers or agents" with the term "producer," which includes both brokers and agents;

- Removes an unnecessary statute in the enabling authority for COMAR 31.08.02; amends Regulation .02B and C of this chapter to replace the term "agents" with "insurance producers," which includes both agents and brokers as used in §2-109 of the Insurance Article of the Annotated Code of Maryland; and amends Regulation .02C to replace the term "companies" with "insurers," which is broader and mirrors the statutory language in §2-109 of the Insurance Article of the Annotated Code of Maryland;

- Adds §27-609 of the Insurance Article of the Annotated Code of Maryland to the enabling authority for COMAR 31.08.03, as this statute is the basis for certain information contained in the forms in Regulations .07 and .08 of this chapter;

- Amends an inaccurate cross reference in Regulation .07A of COMAR 31.08.08;

- Adds §§2-108, 9-102 and 27-501 of the Insurance Article of the Annotated Code of Maryland to the enabling authority for COMAR 31.08.09, as these statutes are the basis for certain provisions contained in this chapter; amends Regulation .06 in COMAR 31.08.09 to remove obsolete language; amends Regulation .07 of this chapter to remove the specified attachment point and provide for any attachment point, subject to the Commissioner's review, and to require each group to provide the Commissioner with a copy of its excess insurance policy in specified circumstances; amends Regulation .08 to clarify certain information to be included in a group's application for a Certificate of Authority, adds new sections to this regulation to specify certain authorities retained by the Commissioner, and amends this regulation to clarify that the required submission of a group's financial statements to demonstrate its combined net assets may be comprised of the financial reports of one or more members; amends Regulation .13 to require an annual submission of a group's excess insurance policy and an annual report signed by one of the group's executive officers concerning the financial condition of each member; and amends Regulation .14 to prohibit rebates and suspensions of premium contributions when a group is insolvent or when such rebates or suspensions of premium contributions otherwise causes the group to be considered in a financially hazardous condition; and

- Amends Regulation .02 under COMAR 31.02.10 to provide consistency with the corresponding statutory authority for this Chapter, §4-405 of the Insurance Article of the Annotated Code of Maryland.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Catherine Grason, Director of Regulatory Affairs, Maryland Insurance Administration, 200 St. Paul Place, Ste. 2700, or call 410-468-2201, or email to insuranceregreview.mia@maryland.gov, or fax to 410-468-2020. Comments will be accepted through December 28, 2016. A public hearing has not been scheduled.

31.08.01 Antiarson Application

Authority: Insurance Article, §2-109 and Title 19, Subtitle 3, Annotated Code of Maryland

.02 Antiarson Application.

A. Each insurer[, broker,] or [agent] *producer* soliciting insurance requiring the use of an antiarson application shall obtain from the applicant the information required by the form of application designated as Standard Antiarson Application Part 1 as set forth in Regulation .03 of this chapter. The completed application shall be obtained before the risk is bound.

B. The insurer [, broker,] or [agent] *producer* may not bind the risk or issue the coverage unless the applicant returns a completed and signed antiarson application.

C. If the Part 1 application indicates that further information is necessary, the insurer [, broker,] or [agent] *producer* shall require the applicant to complete the Standard Antiarson Application Part 2, as set forth in Regulation .04 of this chapter.

D.—E. (text unchanged)

31.08.02 Toll-Free Telephone Number

Authority: Insurance Article, §§2-109 [and 2-112], Annotated Code of Maryland

.02 Establishment of Toll-Free Telephone Number.

A. (text unchanged)

B. The Commissioner may provide to callers educational materials that may include a rate guide or list of [agents] *insurance producers* and insurers.

C. The Commissioner may not recommend to callers specific [companies] *insurers* or [agents] *insurance producers*.

D. (text unchanged)

31.08.03 Notices of Cancellation, Nonrenewal, Premium Increase, and Reduction in Coverage

Authority: Insurance Article, §§2-109, 27-609, 27-613, and 27-614, Annotated Code of Maryland

31.08.08 Lead Poisoning

Authority: Insurance Article, §2-109 and Title 19, Subtitle 7, Annotated Code of Maryland

.07 Notice of Cancellation, Nonrenewal, or Reimposition of an Exclusion.

A. If an insurer intends to not renew or cancel lead hazard coverage, or intends to reimpose a lead hazard exclusion, pursuant to Regulation [.04B] .06B of this chapter, which is not at the request of the insured, the insurer shall give the insured written notice of this

change. This notice shall include, at a minimum, the following information:

(1)—(4) (text unchanged)

B.—C. (text unchanged)

31.08.09 Group Self-Insurance for Workers' Compensation

Authority: Insurance Article, §§2-108, 2-109, 9-102, [and] Title 25, Subtitle 3, and 27-501, Annotated Code of Maryland

.06 Surety Bonds.

A. Each group shall obtain *and maintain* a surety bond for the protection of group members and their employees in an amount [as follows:

(1) For each group approved by the Commissioner to begin initial operations on or after January 1, 2003, the surety bond shall be not less than the amount of the group's required minimum annual premium unless the Commissioner specifies a different amount; and

(2) For each group approved by the Commissioner to begin initial operations before January 1, 2003, the surety bond shall be in the following amount:

(a) For years prior to January 1, 2003, the surety bond shall be not less than \$250,000 unless the Commissioner specifies a different amount;

(b) For the year beginning January 1, 2003, the surety bond shall be not less than \$300,000 unless the Commissioner specifies a different amount;

(c) For the year beginning January 1, 2004, the surety bond shall be not less than \$400,000 unless the Commissioner specifies a different amount; and

(d) For years beginning January 1, 2005 and thereafter, the surety bond shall be not less than \$500,000 unless the Commissioner specifies a different amount.

B.—C. (text unchanged)

.07 Excess Insurance Coverage.

A. Each group shall maintain excess insurance coverage in an amount not less than \$1,000,000 per occurrence *and not less than \$5,000,000 in the aggregate* over [a retention of \$350,000 or less and not less than \$5,000,000 in the aggregate] *a commercially available and reasonable attachment point subject to review of the Commissioner.*

B. A group shall send a copy of its excess insurance policy to the Commissioner in the following circumstances:

(1) *Within 60 days of the renewal or replacement of an existing policy unless, within 90 days after its inception date, such policy will be provided to the Commissioner pursuant to §B(3) of this regulation;*

(2) *Within 60 days of an amendment to an existing policy unless, within 90 days after its inception date, such amended policy will be provided to the Commissioner pursuant to §B(3) of this regulation;*

(3) *Annually as provided in COMAR 31.08.09.13B; or*

(4) *Upon request of the Commissioner.*

[B.] C. The Commissioner may, in the Commissioner's discretion, take the following actions by notifying the group in writing:

(1) (text unchanged)

(2) [Upon application of a group, allow] *Require* the group to *obtain and maintain* excess coverage with a [specific retention level greater than that provided in §A of this regulation,] *specified attachment point* upon consideration of, but not limited to, the following factors relating to the group:

(a)—(d) (text unchanged)

(e) The availability of reinsurance [with the retention level set forth in §A of this regulation] *at specific attachment points at economically feasible rates.*

[C.] D.—[D.] E. (text unchanged)

.08 Application for Certificate of Authority.

A.—B. (text unchanged)

C. The application form shall be accompanied by the following:

(1) A list of the names of the members of the group, *to include each member's*[:];

(a) *Corporate name;*

(b) *Main business address;*

(c) *State of domicile; and*

(d) *Date upon which the member's fiscal year ends;*

(2)—(4) (text unchanged)

(5) A copy of the group's bylaws, which shall contain, at a minimum:

(a) [Underwriting] *A copy of or written description of the underwriting standards for acceptance and continuance in the group*[:];

(b) *A copy of or written description of the method for selecting the board of trustees and administrator of the group*[:];

(c) [The] *A list of the members of the board of trustees and the term of office of the board of trustees*[:]; and

(d) *A copy of or written description of [a] the method for amending the group's bylaws;*

(6) *A copy of [Regulations] regulations adopted by the trustees, which shall be binding on the administrator and service company and which shall contain, at a minimum:*

(a) A description of the manner in which excess funds and claim reserves shall be invested[:];

(b) A description of the frequency and extent of loss control and safety engineering services provided to members of the group[:];

(c) The size of the common claim fund[:];

(d) A schedule for the collection of premiums, including a definition of "delinquent premium"[:];

(e) [Membership] *A copy of or written description of the membership, admission, and expulsion procedures*[:];

(f) [Delineation] *A copy of or written description of the delineation of authority granted to the administrator, board of trustees, and service company*[:]; and

(g) [Procedures] *A copy of the procedures for handling disputes regarding premium payments by members;*

(7) (text unchanged)

(8) [Designation of an] *A list of the initial board of trustees and administrator of the group;*

(9)—(12) (text unchanged)

(13) Copies of executed agreements with each member assuming joint and several liability for obligations of the group in the event of insolvency of the Self-Insurers' Guaranty Fund;[and]

(14) A description of the arrangements whether in-house or under contract, for handling claims[:]; and

(15) *A report on the financial condition of each member in a format acceptable to the Commissioner, based on each member's most recent fiscal year-end data, which shall include the following information for each member:*

(a) *Total assets;*

(b) *Total liabilities and net worth;*

(c) *Total sales or revenues;*

(d) *Net profit;*

(e) *The member's fiscal year-end date; and*

(f) *The basis for reporting the financial information, including whether the report was prepared by a certified public accountant and presented in conformity with generally accepted accounting principles.*

D. At the request of the Commissioner, the group shall submit additional financial information or financial statements for any or all members of the group.

[D.] E. To obtain and maintain its certificate of authority, a group shall comply with the following requirements, as well as with any other requirements established by law or regulation:

(1) [Notice] *Provide notice* to the Commissioner as soon as practicable of any change in the information required to be filed under §B or §C of this regulation; and

(2) [Combined] *Maintain combined* net assets of all members of at least \$1,000,000 as shown by [a] *the most recent annual financial [statement] report of one or more members, [certified by a] each of which is prepared by an independent certified public accountant and in conformity with generally accepted accounting principles, and submitted [for] on behalf of the group as a whole.*

.13 Annual Submission of Financial [Statements] Reports and Other Reports.

A. [Each] *On or before 90 days following the end of a group's fiscal year, each group shall submit to the Commissioner a fiscal year-end audited financial report [statement of financial condition, audited], prepared by an independent certified public accountant, [on or before 90 days following the end of the group's fiscal year] in conformity with generally accepted accounting principles, which shall be on a form prescribed by the Commissioner [and] which shall include, but not be limited to:*

(1) Actuarially appropriate reserves for:

(a) Known claims and expenses associated with them[:];

(b) Claims incurred but not reported and expenses associated with them[:];

(c) Unearned premiums[:]; and

(d) Bad debts, *for which reserves shall be shown as liabilities;*

(2) *An actuarial opinion in compliance with the current edition of the Financial Analysis Handbook published by the National Association of Insurance Commissioners and given by a member of the American Academy of Actuaries or a person who has otherwise demonstrated his or her actuarial competence to the satisfaction of the Commissioner, regarding reserves for:*

(a) Known claims and expenses associated with them[:]; and

(b) Claims incurred but not reported and expenses associated with them[:].

B. A copy of a group's excess insurance policy for the current calendar year shall be submitted with the fiscal year-end audited financial report required by §A of this regulation.

[B.] C. [The actuarial opinion shall be given by a member of the American Academy of Actuaries or a person who has otherwise demonstrated his or her actuarial competence to the satisfaction of the Commissioner.] *On or before 90 days following the end of a group's fiscal year, each group shall submit to the Commissioner a report, in a format acceptable to the Commissioner, regarding the financial condition of each member based on the member's most recent fiscal year-end data, containing the information described in COMAR 31.08.09.08C(15). The report shall be signed by an executive officer of the group.*

.14 Rebates and Temporary Suspension of Member Contributions.

A. Any monies for a fund year in excess of the amount necessary to fund all undiscounted losses and loss adjustment expenses for that fund year, actuarially determined by [a person meeting the requirements of Regulation .13B of this chapter] *a member of the American Academy of Actuaries or a person who has otherwise demonstrated his or her actuarial competence to the satisfaction of the Commissioner, may be rebated to members of the group. [For fund years incepting before January 1, 2008, rebates may not be paid*

less than 11 months after the end of the fund year. For fund years incepting on or after January 1, 2008, rebates may not be paid less than 23 months after the end of the fund year.]

B.—C. (text unchanged)

D. No rebates or suspension of premium contributions shall be made when a group is insolvent or otherwise causes the group to be considered in a financially hazardous condition pursuant to §9-102 of the Insurance Article of the Annotated Code of Maryland.

31.08.10 Medical Professional Insurers Online Claim Survey Reporting Requirements

Authority: Insurance Article, §§4-401 and 4-405, Annotated Code of Maryland

.02 Financial Information Report.

A. (text unchanged)

B. Confidential Information.

(1) An insurer that submits a financial information report shall notify the Commissioner at the time of the submission of any information contained in the report that the insurer considers to be [confidential] *proprietary* information.

(2) The Commissioner, in accordance with State Government Article, §10-617(d) and (f), Annotated Code of Maryland, shall deny inspection of any part of a report submitted under this chapter that the Commissioner determines contains confidential *commercial* information or *confidential financial* information.

C. (text unchanged)

ALFRED W. REDMER, JR.
Insurance Commissioner

Subtitle 10 HEALTH INSURANCE — GENERAL

31.10.11 Uniform Claims Forms

Authority: Health Occupations Article, §1-208; Insurance Article, §§2-108—2-109 and 15-1003—15-1005; Annotated Code of Maryland

Notice of Proposed Action

[16-302-P]

The Insurance Commissioner proposes to amend Regulation .14 under COMAR 31.10.11 Uniform Claims Forms.

Statement of Purpose

The purpose of this action is to repeal the language under COMAR 31.10.11.14C(2). This subsection requires the Commissioner to annually provide to the public a summary of information contained in claims data filings submitted by third-party payors. The statutory authority for this Chapter does not require this report to be created. Interested persons may request this information through the Maryland Public Information Act.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michael Paddy, Legislative and Regulatory Analyst, Maryland Insurance Administration, 200 St. Paul Place, Ste. 2700, Baltimore MD 21202, or call 410-468-2408, or email to michael.paddy@maryland.gov, or fax to 410-468-2020. Comments will be accepted through December 28, 2016. A public hearing has not been scheduled.

.14 Claims Data Filing.

A.—B. (text unchanged)

C. Use of Data by Commissioner. The Commissioner shall[:

(1) Use] *use* the claims data filings to determine the general business practices of third-party payors and entities to which third-party payors have delegated claims processing pursuant to Insurance Article, §15-1005[(g)], Annotated Code of Maryland[; and

(2) Provide to the public annually a summary of information contained in claims data filings submitted by third-party payors].

D.—F. (text unchanged)

ALFRED W. REDMER, JR.
Insurance Commissioner

Subtitle 14 LONG-TERM CARE

31.14.03 Long-Term Care Partnership

Authority: Insurance Article, §§18-102 and 18-106—18-107; Health-General Article, §15-407; Annotated Code of Maryland

Notice of Proposed Action

[16-301-P]

The Insurance Commissioner proposes to amend Regulation .06 under COMAR 31.14.03 Long-Term Care Partnership.

Statement of Purpose

The purpose of this action is to The purpose of this action is to make a technical change to Regulation .06B(2)(a) under COMAR 31.14.03 Long-Term Care Partnership. Effective June 6, 2016, the minimum annual compound inflation benefit for new Long-Term Care Partnership policies was changed in COMAR 31.14.03.05F(1)(a)(i) from 3 percent to 1 percent. This technical amendment updates COMAR 31.14.03.06B(2)(a) consistent with that change.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michael Paddy, Legislative and Regulatory Analyst, Maryland Insurance Administration, 200 St. Paul Place, or call 410-468-2408, or email to michael.paddy@maryland.gov, or fax to 410-468-2020. Comments will be accepted through December 28, 2016. A public hearing has not been scheduled.

.06 Applications.

A. (text unchanged)